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9 January 1978

DCI/DDCI Senior Staff and Agency Functional Summary Notebook

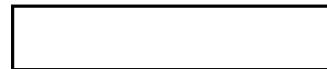
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Legislative Counsel

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Executive Secretariat

These are the portions
of the DCI/DDCI Senior
Staff and Agency Functional
Summary Notebook that you
wanted today. We will try
to get the rest to you in
the next day or two.



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OFFICE OF LEGISLATIVE COUNSEL

FUNCTION:

- (1) Mission. The Legislative Counsel is responsible for all Congressional matters arising in connection with the official business of the Director of Central Intelligence.
- (2) Functions: The Legislative Counsel shall:
 - (a) Keep the Director of Central Intelligence informed on all Congressional matters involving or affecting the Agency and the Intelligence Community.
 - (b) Keep the Deputy Director of Central Intelligence (CIA) and the Deputy to the Director of Central Intelligence (Intelligence Community) informed on all Congressional matters involving or affecting their responsibilities.
 - (c) Study and recommend Agency and Intelligence Community action in connection with proposed legislation in order to preserve or attain legislative requirements.
 - (d) Control all liaison with the Congress of the United States, its individual members and committees, and their staffs, and with legislative liaison staffs of other Executive departments and agencies.
 - (e) Subject to coordination with the Comptroller, conduct liaison with the Office of Management and Budget and other Federal agencies with respect to proposed legislation, enrolled bills, reports on proposed legislation, and proposed Executive Orders.
 - (f) Supervise the handling of Congressional correspondence and inquiries.

STRENGTH:

- X1
- a. ☐ as of 1 November 1977
 - b. ☐ FY 78 Authorization

FUNDS:

25X1

25X1

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(OLC-78-0114)

Updating of the DCI/DDCI Senior Staff and Agency
Functional Summary Notebook

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entire package
filed DCI

Pink Cover Sheet for your signature

2 DEC 1977

Office of Legislative Counsel

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Frey:

Enclosed is the proposed legislative program of the Director of Central Intelligence for the second session of the 95th Congress. This program is submitted in accordance with Office of Management and Budget Circular No. A-19, revised.

The overriding legislative activity of the Director of Central Intelligence during 1978 will involve intelligence charter legislation, which is expected to be introduced during the second session of the 95th Congress. In this context we will likely be considering, among other things, revisions of the statutory authorities and duties of the Director of Central Intelligence and of the Central Intelligence Agency, and amendments to other statutory provisions affecting Agency employees and activities. There are, however, two legislative matters that we propose to submit during the 95th Congress. The first of these, revised statutory authority for officers of the Central Intelligence Agency to carry firearms, has been under consideration for some time and recently was submitted to the Office of Management and Budget. It may be, however, that the legislative proposal package will not obtain final review before the start of the second session; and therefore it is included in the Director's proposed legislative program for the second session. The second matter is a proposed amendment to Title 18 of the United States Code to make unlawful the unauthorized use or falsification of the Central Intelligence Agency's name, initials or seal.

The legislative proposal for revised firearms authority for officers of the CIA would more fully delineate the circumstances--frequently involving the need to maintain the confidentiality of Agency involvement--under which Agency security officers may carry firearms within the United States in performing certain protective functions. The present statutory authority to carry firearms, section 5(d) of the Central Intelligence Agency Act of 1949, as amended, provides only that Agency "couriers and guards" are authorized to carry firearms "when engaged in transportation of confidential documents and materials." We believe there are other circumstances where it is necessary for security officers to carry firearms if intelligence information, personnel and facilities are to be adequately protected.

Under present Federal statutes, there is no specific authority under which the CIA could protect the use of its name, initials or seal from falsification or misuse, such as that available to the Federal Bureau of Investigation in 18 U.S.C. 709. Therefore, the CIA must rely on several other criminal statutes which apply generally to the Federal Government in order to protect against improper use of the Agency's name, initials or seal; these statutes are drawn very narrowly in terms of the protection they would afford and the types of misuse proscribed. Because these are not considered adequate, we propose to submit a specific legislative proposal that would provide criminal penalties for the misuse or falsification of the Agency's name, initials or seal.

The Director of Central Intelligence is also considering legislative proposals that would protect against the unauthorized disclosure of intelligence sources and methods, to extend educational travel allowances to all CIA employees stationed abroad, and to provide for payment of a gratuity to surviving dependents of CIA employees who die as a result of injuries sustained in the performance of duty.

It is not anticipated that any laws or provisions of laws affecting the Central Intelligence Agency will expire in 1978.

Sincerely,

[Redacted Signature]

Legislative Counsel

Enclosure

Distribution:

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23 Nov 77

DIRECTOR OF CENTRAL INTELLIGENCE
INTELLIGENCE COMMUNITY STAFF

CENTRAL INTELLIGENCE AGENCY

PROPOSED LEGISLATIVE PROGRAM FOR THE
SECOND SESSION OF THE 95TH CONGRESS

PART I--PRESIDENT'S PROGRAM PROPOSALS

95-1. Authority of the Director of Central Intelligence to Authorize Personnel of the Central Intelligence Agency to Carry Firearms Under Certain Circumstances: In furtherance of the Central Intelligence Agency's foreign intelligence mission and in aid of the Director of Central Intelligence's statutory duty to protect intelligence sources and methods, the Agency's Office of Security is responsible for insuring proper security of Agency facilities, personnel and information. The Agency now faces a problem concerning delineation of the circumstances--which frequently involve the need to maintain the confidentiality of Agency involvement--under which its security officers may carry firearms within the United States in performing these protective functions.

Section 5(d) of the Central Intelligence Agency Act of 1949, as amended, provides only that Agency "couriers and guards" are authorized to carry firearms "when engaged in transportation of confidential documents and materials." There are other circumstances where it may be necessary for security officers to carry firearms if intelligence information, personnel and facilities are to be adequately protected.

The proposed legislation would permit the Director of Central Intelligence to authorize qualified Agency personnel to carry firearms in the United States for only four purposes. First, the Director may authorize personnel to carry firearms when safeguarding confidential documents or materials. This essentially corresponds with existing law, although the proposed legislation allows for the protection of documents and materials which are not in the process of being transported. Second, personnel may be authorized to carry firearms for the protection of Agency facilities, properties, monies and other valuable assets. This may be necessary, for example, to guard against the physical penetration of a sensitive covert facility within the United States. Such authority also may be necessary to protect large amounts of cash intended for confidential operational purposes which therefore must be transported within the United

States under secure cover procedures. Third, Agency personnel may be authorized to carry firearms to protect Agency personnel, who are exposed to the risks of extortion, abduction or even assassination, and terrorization, and to prevent the extortion or abduction of defectors or sensitive foreign guests. The draft bill also permits the use of firearms for authorized training purposes.

Enactment of this proposal will not result in significant additional costs to the Federal Government. On the contrary, clarification of the authority under which Agency officers are authorized to carry firearms to protect intelligence information, personnel and facilities will result in more efficient and secure conduct of Agency activities.

95-2. Legislation to Prevent Falsification or Misuse of the Name, Initials or Seal of the Central Intelligence Agency: Under current Federal law there is no specific statute that would protect against the falsification or the misuse of the name, initials or seal of the Central Intelligence Agency, similar to that applicable to the Federal Bureau of Investigation (18 U.S.C. 709). Thus, the CIA must rely on several narrowly drawn criminal statutes that are applicable generally to the Federal Government for the protection of its name, initials or seal. Existing statutory machinery available to the CIA to protect against improper use of its name, initials or seal is neither sufficient nor complete.

To correct this, the proposed legislation would make it a crime for any person to knowingly and without the written permission of the Director of Central Intelligence use the words "Central Intelligence Agency," the initials "CIA," the Agency seal or any colorable imitation of such words, initials or seal in connection with any advertisement, circular, book, pamphlet or other publications, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such use is approved, endorsed or authorized by the Central Intelligence Agency. The proposed legislation also would provide for injunctive relief in appropriate circumstances.

The proposed legislation parallels the provisions in 18 U.S.C. 709 applicable to the FBI.

Enactment of this proposal will not result in significant additional costs to the Federal Government.

PART II--All Other Proposals.

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PART III--PROPOSALS STILL UNDER CONSIDERATION

1. The Director of Central Intelligence, in conjunction with the Attorney General and other appropriate agencies and departments in the Executive Branch, is considering legislative proposals that would protect against the unauthorized disclosure of intelligence sources and methods. One such proposal under consideration would establish criminal penalties for such unauthorized disclosure in order to further implement the existing statutory responsibility of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure (section 102(d)(3) of the National Security Act of 1947, as amended). Action to protect against the unauthorized disclosure of intelligence sources and methods is necessary to prevent, to a much greater degree than is possible under current law, serious damage to our foreign intelligence effort resulting from the unauthorized disclosure of information related to intelligence sources and methods. In many instances under current law the circumstances under which such information has been disclosed precludes punitive criminal action, and in most instances existing law is ineffective in preventing disclosure of intelligence information.

2. In addition, the Director of Central Intelligence is considering legislation that would provide one trip annually for dependents of Central Intelligence Agency employees from a foreign area to a high school or college in the United States. This benefit was granted to employees of the Department of State, AID and USIA in October 1974 and was made effective November 1975. Failure to grant this benefit to CIA employees abroad is a serious inequity which should be corrected.

3. The Director of Central Intelligence also is considering legislation that would permit him to authorize the payment of a gratuity, in the amount of one year's salary, to dependents of CIA employees who die as a result of injuries sustained in the performance of duties outside the United States or who are declared dead under the provisions of the Missing Persons Act. Overseas service is becoming increasingly hazardous for all U.S. Government employees and CIA personnel share these risks. However, unlike employees of other U.S. agencies who are similarly situated, CIA personnel are not entitled to any general death gratuity benefit. Dependents of State Department employees, for example, receive a gratuity in the amount of one year's salary. The proposed legislation is designed to achieve equity for CIA employees in this regard.

OFFICE OF LEGISLATIVE COUNSEL

INTERNAL RELATIONSHIPS:

The Legislative Counsel reports to the Director of Central Intelligence. When the matter involves the Agency it reports through the Deputy Director of Central Intelligence and when it involves the Intelligence Community it reports through the Deputy to the Director of Central Intelligence for the Intelligence Community. The Office of Legislative Counsel receives its assignments directly from the above-mentioned officials. However, many of the requests for action originate with Congressional committees and individual members and their staffs. These requests, where necessary, are cleared through the above-mentioned officials. Whenever an assignment or a request is received, OLC refers the matter to the appropriate component, coordinates the preparation of responses, reviews responses to assure policy consistency and responsiveness and forwards the response to the appropriate officials, Congressional committees or individual members. The OLC, where necessary, coordinates and keeps informed the Comptroller, the General Counsel and the Inspector General on all matters within these purviews. The OLC, when necessary, requests the Office of the DDI and the NIO to provide substantive intelligence and briefings on subjects requested by Congressional committees or individual members.

EXTERNAL RELATIONSHIPS:

X1 The OLC participates in the weekly White House meetings of legislative liaison officers. [] Legislative Counsel, and [] Deputy Legislative Counsel, principally handle day-to-day coordination with the heads of legislative liaison offices in other Executive Branch components, although all members of the Office of Legislative Counsel maintain contact where necessary from time to time. In particular, [] Chief, Legislation Staff, Office of Legislative Counsel, supervises liaison on legislation with OMB and other executive agencies. The primary point of contact in other principal Executive Branch components are:

25X

- James M. Frey, OMB
- Paul Michel, Department of Justice
- Col. Steve Harrick, Department of Defense
- Bob Beckel or Brian Atwood, Department of State

STATUS OF INTELLIGENCE CHARTER LEGISLATION

During the first half of 1977, indications from the Senate Select Committee on Intelligence (SSCI) were that the Charters Subcommittee chaired by Senator Huddleston would have ready for introduction late in 1977 charter legislation bills. As the end of the year approached, however, and as the deadline for final action on the redraft of E.O. 11905 kept getting pushed back, chances for introduction of charter legislation before the start of the second session of the 95th Congress dimmed considerably. The latest word we have at this time is that at least the major portion of the charter legislation (e.g., the general authorities, establishment of the position and authorities of the "Director of National Intelligence," the CIA charter, restrictions on intelligence activities, and possibly the NSA charter) will be introduced not too long after the second session convenes on 19 January 1978.

We have received thus far from the SSCI staff drafts of Titles I (general authorities for national intelligence activities, the DNI, oversight, restrictions and budgetary requirements), II (intelligence and individual rights), III (NSA) and IV (CIA). The Director is engaged in maintaining informal working level discussions with the SSCI, responding to these drafts and providing our informal views on what is and what should be contained in the charter legislation; the focal point for such working level contacts with the SSCI is the Office of Legislative Counsel. We have also drafted, as a means of focusing Agency and IC Staff views on charter legislation, our own Titles I (the DNI, general authorities, oversight and budgetary/appropriations requirements) and III (the CIA charter). A draft of Title I as coordinated within the Agency and as reviewed by the Director (but still representing our unofficial views) has been provided to the SSCI and to the NSC. Substantively, perhaps the most significant aspects of our draft Title I are that the authorities and duties regarding foreign intelligence (e.g., collection, analysis, dissemination and coordination of intelligence) run to the Director of National Intelligence directly rather than through the CIA as under the present charter, and the statutory requirements for the authorization of funds for intelligence activities. Similarly DOD, under the working level direction of General Counsel Deanne Siemer is providing extensive comments on the SSCI draft and has also drafted its own Title I.

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By memorandum from Dr. Brzezinski of 6 December 1977, the Director is made responsible for developing Administration positions on charter legislation for presentation to the National Security Council prior to being "represented in Congress as authoritative Administration-- as opposed to departmental or agency-- views." We are now in the process of establishing under the DCI a mechanism whereby Community views and positions on charter legislation will be pulled together and coordinated (and disputed issues identified) for treatment according to the memorandum from Dr. Brzezinski.

We have serious problems with both the substance and the format of the SSCI drafts received thus far; certain of the requirements therein raise serious questions of constitutional prerogatives, many of the provisions would be extremely burdensome if not unworkable in practice, and the drafts are overly long and excessively detailed, raising problems of interpretability and statutory intent. Certainly, under the SSCI's presently enunciated timetable, there will not be adequate opportunity to resolve even those issues on which resolution is possible, and at any rate over the coming months we will be engaged in hearings and other discussions and exchanges of documents with the SSCI on the whole range of charter legislation issues.

LEGISLATIVE ACTION IN THE 1ST SESSION OF THE
95TH CONGRESS AND THE OUTLOOK FOR THE 2ND SESSION

1. Major Legislation of Interest During 1st Session

In carrying out its responsibility to monitor and act on legislation impacting on or otherwise affecting the CIA and the Intelligence Community, the Office of Legislative Counsel, during the 1st session of the 95th Congress, devoted considerable effort to the following legislative matters, among others:

(a) Intelligence Oversight (culminating in the passage of House Resolution 658 which established a House Permanent Select Committee on Intelligence; a separate paper is included);

(b) Authorization of Funds (resulting in the passage by the Senate of S. 1539 which for the first time authorized the appropriation of funds for CIA activities; the amount authorized was not made public);

(c) Open budget question (including direct efforts to make public the CIA or National Foreign Intelligence Program Budget, as well as bills that might have done so indirectly);

(d) Hatch Act Revisions (the Administration has agreed to support an exemption for employees of intelligence agencies so that they not be covered by the liberalized restrictions; H. R. 10 has passed the House and is pending in the Senate);

(e) Financial Disclosure for GS-16's and Above (the Senate has passed a version protecting the identity of some employees, and House Committees have reported bills which include protections of varying degrees);

(f) Expansion of Corporate Reporting Requirements (P. L. 95-213 includes protection against disclosure of CIA corporate relationships);

(g) Periodic Review of Government Programs ("Sunset Legislation": portions of S. 2, the bill now pending before the Senate Rules Committee, are a result of efforts to insure the protection of sensitive information);

(h) Raise Mandatory Retirement Age (the bill, H. R. 5383, was amended to exclude the Central Intelligence Agency Retirement and Disability System; in addition, the CIA raised its mandatory retirement age for Civil Service personnel to 70 in anticipation of the bill's eventual passage);

(i) Electronic Surveillance for Foreign Intelligence (an Administration bill requiring a warrant for surveillance in the U. S. is winding its way through Congress);

(j) Limits on Use of Polygraph (the bill would permit CIA to polygraph employees; we are seeking an amendment to permit contractors to polygraph their employees); and

(k) SALT Verification (requires reporting to Congress on U. S. verification capability; we obtained an amendment to protect intelligence information from disclosure during this process).

2. Other Legislation of Interest During 1st Session

There are also a number of subjects which were relatively inactive in Congress but nevertheless were the subject of position papers and views letters or received other attention from the Office of Legislative Counsel. Included in this category are:

(a) Provisions for the protection of persons engaged in intelligence activities (a number of bills have been introduced to accomplish this, but the prospects for action on them are not good; however, the matter is also a topic of charter proposals);

(b) Reform and Restructuring of the Intelligence Community (this office has prepared responses to requests for views on several bills to accomplish this; the matter is also a topic of the charter proposals); and

(c) Protection of Intelligence Sources and Methods (a letter submitted by the DCI to the House Committee on Armed Services indicated that imposition of criminal sanctions is one alternative which should be studied).

3. Legislation of Particular Interest During 2nd Session

(a) Intelligence charter legislation and reorganization of the Intelligence Community (a separate paper is included);

(b) Limits on intelligence activities (such as relations with the media);

(c) Revision of Criminal Code;

(d) Federal Procurement Policy and Requirements;

(e) Unionization of Federal Employees;

- (f) Omnibus Right to Privacy Act;
- (g) Arms Export and Security Assistance Limitations, including human rights issues; and
- (h) Carry overs from 1st Session - authorization of funds, open budget, Hatch Act, financial disclosure, "Sunset legislation," mandatory retirement, electronic surveillance and polygraph.

We have notified the Office of Management and Budget that we may propose in 1978 legislation to revise the authority for CIA officers to carry firearms and to make unlawful the unauthorized use or falsification of the Agency's name, initials or seal. We are also considering proposing amendments to the Freedom of Information Act.

I. CONGRESSIONAL OVERSIGHT

A. Background

Successive Directors of Central Intelligence have recognized that Congress has far-reaching legislative oversight and appropriations responsibilities under the Constitution. They have consistently taken the position that they would work with the Congress in any way in which Congress organizes itself to exercise these responsibilities.

Since the creation of the office of Director of Central Intelligence and the Central Intelligence Agency in 1947, Congress has exercised its oversight and appropriations responsibilities through certain designated committees. After some initial skirmishes with the Committees on Expenditures in the Executive Departments (the precursors of the present Government Operations Committees), the House and Senate Armed Services Committees gained legislative oversight of the Agency. Also, from the outset, the respective Appropriations Committees participated in intelligence oversight through review and approval of the Agency's operating budget. Each of these four committees created subcommittees of senior members, nearly always headed by the chairman of the full committee, to exercise the committee's intelligence oversight responsibilities. This basic oversight structure remained intact for over 25 years.

B. Establishment of Intelligence Oversight Committees

The past two years have seen the development of intelligence oversight committees in both Houses of Congress. The Senate Select Committee on Intelligence was established by S. Res. 400, which passed the Senate on 19 May 1976. On 14 July 1977 the House of Representatives passed H. Res. 658 which created the House Permanent Select Committee on Intelligence. The two resolutions mirror each other in the key areas of jurisdiction, notification, disclosure of information and authorization of funds. They differ in two significant areas. S. Res. 400 provides for a non-partisan Committee, while H. Res. 658 provides that the Committee should reflect the political make-up of the House. In addition, H. Res. 658 does not require, as does S. Res. 400, that the Committee be kept fully and currently informed about present and planned intelligence activities.

SECTIONAL COMPARISON

1. Membership

a. S. Res. 400

(1) Fifteen members (plus the Senate Majority and Minority leaders who are ex-officio members) - 8 designated seats from the following committees: Appropriations, Armed Services, Foreign Relations and Judiciary; and 7 members appointed at-large (8 of the seats are reserved for Majority Party, regardless of Party ratio).

(2) as a result of the recent restructuring of the Senate committee system, the membership of the Select Committee is increased temporarily to 17.

(30 Eight years maximum continuous term.

b. H. Res. 658

(1) Thirteen members (plus Majority and Minority leaders as ex officio members) - must include one member of each of the following committees: Appropriations, Armed Services, International Relations and Judiciary. Party ratios are the same as other standing committees.

(2) Six-year maximum continuous term.

2. Jurisdiction

a. S. Res. 400

(1) All proposed legislation, messages, petitions, memorials and other matters relating to the CIA, the DCI and intelligence activities of all other departments and agencies of the Government, including but not limited to the Departments of States, Justice, Defense and Treasury. This includes authorization legislation.

(2) Section 3(c) provides "nothing in this rule shall be construed as ... restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee."

b. H. Res. 658

Identical provisions but adds "intelligence-related activities" of agencies and departments other than CIA and the DCI.

3. Reports

a. S. Res. 400

(1) The Committee shall make periodic reports to the Senate on intelligence activities.

(2) Directors of agencies and departments with foreign intelligence responsibilities shall file with the Committee unclassified reports on their foreign intelligence activities and on the intelligence activities of foreign countries. The unclassified reports may be made public.

b. H. Res. 658

Identical provision.

4. Committee Security

a. S. Res. 400

(1) Committee employees and other persons working for the Committee must agree in writing and under oath not to disclose Committee information during or after employment with the Committee. An appropriate security clearance is also required.

(2) The Committee shall adopt rules and procedures insuring the security of information and material in its possession which "unduly infringes upon the privacy" of a person or violates such person's constitutional rights.

b. H. Res. 658

Identical provisions.

5. Disclosure of Information

a. S. Res. 400

(1) The Committee may make public classified information in its possession under specified procedures requiring notification of the President and a vote by the full Senate if the President objects.

(2) The Committee may, under such rules as it shall prescribe, disclose classified information to any other committee or member of the Senate.

b. H. Res. 658

The procedure for disclosure of classified information is slightly different, but the thrust of the provisions are the same.

6. Responsibility to Report to the Committee

a. S. Res. 400

It is the sense of the Senate that the head of each department or agency involved in intelligence activities should:

"a. ...keep the Committee fully and currently informed on intelligence activities ... Provided that this does not constitute a condition precedent to the implementation of any such ... activity.

"b. ... furnish the Committee any information or documents in its possession upon request.

"c. ... report immediately violations of constitutional rights, laws, Executive orders, Presidential directives, or departmental or agency rules."

b. H. Res. 658

No such provisions.

7. Authorizations

a. S. Res. 400

The Senate cannot consider appropriations bills which include funds for any intelligence activity, unless such funds "have been previously authorized by a bill or joint resolution passed by the Senate ..."

b. H. Res. 658

Identical provision (except that the resolution would be passed by the House rather than the Senate).

8. Studies

a. S. Res. 400

The Committee is authorized to study all relevant aspects of the planning, gathering, use, security and dissemination of intelligence and to recommend legislation from time to time. The resolution also calls for study of covert activities and whether disclosure of the intelligence budget is in the public interest.

b. H. Res. 658

Identical provisions.

C. Other Congressional Support

In contrast to these restrictions on operational matters, substantive intelligence information has been more freely disseminated within Congress. Directors have generally recognized that Congress has a role to play in formulating foreign policy, and they have been prepared to share with various Congressional committees and individual members information and analysis on foreign developments. As Congress has become more assertive in the foreign policy area, this substantive intelligence support has increased dramatically. At present, the Congress is one of the Agency's foremost consumers of intelligence. For example, in 1976 the Director or his representatives provided substantive intelligence briefings to committees and subcommittees and to individual members on 244 occasions. In 1977, committees and subcommittees and individual members were briefed on 289 occasions.

The Congressional Support Staff of NFAC provides the substantive intelligence briefers using resources available throughout NFAC. This unit makes a large and important input to the DCI's relations with Congress.

During the 93rd and 94th Congresses, two significant changes occurred in the intelligence oversight structure. In the 93rd Congress, the so-called "Hughes-Ryan Amendment" was enacted as Section 662 of the Foreign Assistance Act of 1961, as amended. The amendment was designed to expand Agency reporting on covert actions. It required that non-intelligence gathering operations abroad must be found by the President to be important to the national security and be reported to the Senate Foreign Relations Committee and the House International Relations Committee, as well as to the regular oversight committees. Prior to the amendment, covert actions had been reported only to the regular oversight committees.

D. The Proliferation Problem

The principle that information on intelligence operations and on sources and methods should be reported only to a limited number of oversight committees has been generally supported by the Congress. Recently, however, there has been some dissatisfaction with this practice and, especially during the 94th and 95th Congresses, there has been mounting pressure to permit other committees to become involved in overseeing intelligence activities. Indeed, no less than 11 committees and subcommittees, other than the regular oversight committees, asserted oversight jurisdiction over aspects of intelligence operations during the 94th Congress. These included, for example, the Judiciary, Government Operations, and Foreign and International Relations Committees of both Houses, as well as less likely bodies, such as subcommittees of the Banking, Housing and Urban Affairs Committee; the Commerce Committee; the Labor and Public Welfare Committee, and the Interstate and Foreign Commerce Committee. In addition, the House and Senate Budget Committees are preparing to become involved in the intelligence budget process.

These growing pressures for allowing more committees to get involved in intelligence oversight stemmed, in part, from a perception that regular oversight was ineffective and, in part, from genuine policy disagreements between chairmen of different committees. They also reflect the growing significance of foreign intelligence information to a broad spectrum of interests represented in Congress. No doubt some aspect of Agency activity touches upon areas which legitimately concern virtually every committee in Congress. Yet the net effect of these pressures has been to fragment oversight and proliferate much sensitive operational information widely and, in some instances, haphazardly throughout Congress. This increased access to operational information has resulted in damaging leaks.

There was some hope that the creation of the intelligence oversight committees might serve to consolidate Congressional requests for intelligence information in those two bodies, but this has not been the case. The Senate Select Committee on Intelligence has vigorously attempted to act as a central clearing house for the Intelligence Community, but this has not stopped the other Senate committees from levying direct requests for appearances and materials. The House Permanent Select Committee on Intelligence has shown some reluctance to stand between the Intelligence Community and other committees of the House which are interested in intelligence information or other matters concerning intelligence agencies.

E. Congressional Protection of Information

The process of providing sensitive information to Congress has been complicated by the internal rules of the Senate and House. House Rule XI and an identical Senate Rule provide that: "All committee hearings, records, data, charts, and files...shall be the property of the Congress and all members of the committee and the respective House shall have access to such records." Under this rule, all 535 members of Congress have potential access to any operational information which the Director of Central Intelligence provides a standing committee. Some sensitive information has been compromised as a result of this Rule.

The problem may be aggravated in the 95th Congress. The Democratic Caucus voted to sponsor an amendment to Rule XI which would permit any member of the House to attend any hearing of any House committee, unless the House as a whole votes that a particular hearing may be closed. This amendment was adopted by the House.

The provision of sensitive information to Congress has also been complicated by the debate on whether a Congressional committee has the right to release classified information to the public over the objections of the Executive Branch. This debate involves deeply held convictions regarding the prerogatives of both Branches. Suffice it to say that some members of Congress have asserted an untrammelled discretion to disclose information which has been provided them by the Executive Branch. The issue was addressed in S. Res. 400. Section 8 of the Resolution sets forth a procedure by which the Senate Select Committee can vote to disclose any information they wish to. If they do so, the President has five days to object; and if he does so, the Senate can override his objections by a floor vote in secret session.

F. Covert Action Oversight

The reporting of covert actions to Congress presents special problems with respect to Congressional oversight.

As mentioned above, prior to 1974, covert actions had been reported to the regular intelligence oversight committees. In 1974, however, the Hughes-Ryan Amendment was enacted, and it required that the President make a written finding that each proposed action is important to the national security and report "in a timely fashion" the scope and description of each action to the Senate Foreign Relations Committee and the House International Relations Committee, as well as the regular oversight committees, which now number four. Thus, a total of six committees receive these reports. This means that covert actions are reported to over 50 members. Since adoption of the Hughes-Ryan Amendment, all covert actions have been duly reported. Several have been compromised shortly thereafter.

The obligation to report to Congress on a proposed covert action project does not arise until after the President has made a finding that the operation in question is important to the national security. The President has delegated to the Director of Central Intelligence responsibility for making the required reports.

The following procedures have been developed to meet the requirements Section 662:

Immediately upon being informed that the President has made a finding pursuant to Section 662, the Office of Legislative Counsel, on behalf of the Director of Central Intelligence, notifies the chairman of each of the relevant committees, or whomever the chairman has designated to receive such notification in his absence. The Office orally informs the chairman, or his designee, that the President has made a finding with respect to a particular country under Section 662, and that the Director stands ready to brief the committee on the activity at the committee's earliest convenience. The chairman of each committee, or his designee, receives such notification as soon as secure communication to him is possible. When Congress is in session, notification of all committees normally is accomplished within 48 hours. Upon notifying the committees, the Office of Legislative Counsel makes arrangements for the Director to brief each committee on the operation. The Director, or his designee, will orally brief the committees. When a covert action project involves a release from the Reserve, the Office of Legislative Counsel notifies the Chairmen of the House and Senate Appropriations Committees, and the chairmen of CIA's legislative oversight committees/subcommittees of the House and Senate, of the proposed withdrawal, indicating the amount expected to be withdrawn from the Reserve and the purpose for which the funds will be used. Reserve release notifications involving Section 662 projects are made within 48 hours after the Office of Management and Budget has approved the Reserve release. Pursuant to House Appropriations Committee letter to the Director of OMB on 25 September 1975, if funds are to be reprogrammed within the Agency, or transferred from other agencies, prior approval must be obtained from the Appropriations Committees.

II. AUTHORIZATIONS, APPROPRIATIONS, AND BUDGET SECRECY

A. Background

In 1949 Congress enacted the Central Intelligence Agency Act. Sections 5 and 8 of this Act, together with various informal Congressional procedures, protect from disclosure the funds appropriated to and expended by the Central Intelligence Agency.

Sections 5 and 8 have been construed as providing the Agency with a continuing authorization and therefore no annual authorization bill has been required prior to the 95th Congress.

Section 5 of that Act states in part:

"In the performance of its functions, the Central Intelligence Agency is authorized to--

(a) Transfer to and receive from other Government agencies such sums as may be approved by the Bureau of the Budget, for the performance of any of the functions or activities authorized under sections 403 and 405 of this title, and any other Government agency is authorized to transfer to or receive from the Agency such sums without regard to any provisions of law limiting or prohibiting transfers between appropriations. Sums transferred to the Agency in accordance with this paragraph may be expended for the purposes and under the authority of sections 403a-403j of this title without regard to limitations of appropriations from which transferred."

This provision permits appropriated funds to be made available for Agency expenditure without having first been publicly identified either in part or aggregate as Agency funds. The report of the Senate Committee on Armed Services states that the Act "provides for the annual financing of Agency operations without impairing security." (S. Rept. No. 106, 81st Cong., 1st Sess., 1949.)

Pursuant to this provision of the Act and under procedures developed by the Congress, subcommittees of the House and Senate Appropriations Committees review the Agency budget in executive session. When the subcommittees agree on the level of the Agency's funding, these funds are placed in the Defense Appropriation Act upon which the full Appropriations Committees and the Senate and House of Representatives vote. The Chairmen of the Appropriations Committees have permitted any interested members access to the Agency and Intelligence Community budget figures under appropriate security injunctions. After Congress approves the

Defense Appropriation Act, funds for the Central Intelligence Agency are transferred from this appropriation to the Agency pursuant to the Section 5 transfer authority. All funds for the Central Intelligence Agency and the Intelligence Community staff are included in the Defense Appropriation Act.

Section 8(b) of the Central Intelligence Agency Act of 1949 complements Section 5. While Section 5 protects from disclosure the flow of funds to the Agency, Section 8(b) protects Agency expenditures from disclosure. It provides:

"(b) The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified."

Congress has enacted similar provisions to operate in other situations where a compelling need for secrecy has been found. Thus, provision is made for secrecy in accounting for certain Federal Bureau of Investigation expenditures at 28 U.S.C. 107, for certain Department of the Navy expenditures at 31 U.S.C. 108, and for Atomic Energy Commission expenditures at 42 U.S.C. 2017(b).

From time to time, this funding arrangement has been challenged as unprecedented and unconstitutional. The Agency has thoroughly reviewed these questions in conjunction with the respective Appropriations Committees. Both the Agency and the Committees have concluded that the history of Congressional and Executive Branch practice in the foreign intelligence shows a strong tradition of preserving budgetary secrecy, dating from the earliest days of the Republic. Moreover, while no court has reached the question of the legality of this funding process, the Agency believes that the process is consistent with the Statements and Accounts Clause of the Constitution. The House Appropriations Committee discussed these questions in its report on the FY 1976 Defense Appropriations Bill. The report states: "The Committee decided that publication of the intelligence budget totals would be injurious to the security of the United States."

Even though interested members of either House may obtain the intelligence budget figures from the Chairmen of the respective Appropriations Committees, there have been two efforts on the floor of Congress to make these figures public. Both were rejected.

On 4 June 1974 the Senate by a vote of 55 to 33 defeated an amendment introduced by Senator Proxmire to the Defense Procurement Authorizations Bill which would have required the Director of Central Intelligence to submit an annual unclassified report to the Congress disclosing the total amount of funds requested in the budget for the National Intelligence Program.

On 1 October 1975 the House by a vote of 267 to 147 rejected an amendment introduced by Representative Giaimo to the Defense Appropriations Bill which would have required public disclosure of the total dollar figure of the Central Intelligence Agency budget.

The Department of Defense Appropriations Bills for FY 1977 and FY 1978 included an open appropriation for "Intelligence Community Oversight." The House Appropriations Committee explained that, although the Committee still believed that the Intelligence budgets should not be publicly revealed, "the Committee felt an exception to its general policy of concealment of the intelligence budget is merited in the case of the appropriation for "Intelligence Community Oversight" because it wants to assure the Congress unambiguously that the Committee supports increased oversight of the Intelligence Community.. "The Conference Report for FY 1977 further explained that while a public appropriation for "Intelligence Community Oversight" would serve as "a symbol of the congressional intent that there by strong, central direction of the Intelligence Community," the conferees agreed that "other elements of the intelligence and intelligence-related budgets should not be revealed, since todoso could result in harmful effects to United States security."

On 27 June 1977, following a 9-8 vote by the Senate Select Committee on Intelligence, Senator Inouye introduced S. Res. 207. The Resolution directs the Chairman of the Select Committee on Intelligence to make public the aggregate amount appropriated for fiscal year 1978 foreign intelligence activities immediately after the appropriation has been signed into law. The resolution is on the calendar, and will be taken up this session. Senators Hathaway and Moynihan were the only Democrats on the Committee to oppose disclosure, and Senators Case and Mathias were the only Republicans to support it.

B. The "Secrecy" Issue

There are a broad range of opinions on the question of budgetary secrecy. The weight of opinion among intelligence professionals is that it would be undesirable to publicly identify intelligence budget totals. This still appears the preponderant view in the Congress. However, the Administration view as

expressed by the DCI in open hearing before the Senate Select Committee on Intelligence during the first session of the 95th Congress is that if the Congress opts for a single public figure for the Intelligence Community and safeguards any further disclosure, there will be no objection.

Arguments against making the figures public have generally run along three lines. First, it is pointed out that interested and concerned Members of Congress may obtain the figures upon request to the Appropriations Committee Chairmen, so that they can conscientiously exercise their legislative responsibilities. Therefore, the question becomes whether anything would be gained further by making these figures public to the American people in general and the world at large. It is argued that the total figures would be meaningless and useless to even the most sophisticated citizen unless they were defined and explained in more detail.

Second, it is argued that once even total budget figures are made public, it will be impossible to prevent disclosure of further details. Definitional questions will be raised at the outset about where "intelligence" expenditures stop and operational expenditures begin. Questions will be raised about what is included in the figure and what is not. There will be understandable pressures to provide further breakdowns so that the spending pattern becomes intelligible-- how much is spent on collection versus production, on collection versus covert action, on clandestine collection versus technical collection, on support versus operations, and so forth. This "erosion" argument finds some support in the experience of the Atomic Energy Commission. From a one-line item in 1949, the published budget figures for the Commission expanded to a 15-page detailed breakdown in 1974.

Third, it is argued that even though the total budget figure for a particular year would not assist foreign services in their estimates of U.S. intelligence activities; yearly publication of the figures would. Fluctuations from year-to-year would permit foreign services to anticipate major U.S. intelligence initiatives. For example, new technical collection programs would be signalled by sudden and substantial increases in the budget. This information, when coupled with other bits and pieces of information, could permit foreign services to identify the program. Moreover, a precipitous increase in the intelligence budget in a given year would spark public inquiry and foreign services could almost be confident that investigative journalists would do their job for them. This argument has been challenged by the staff of the Senate Select Committee on Intelligence for the Intelligence Community.

Some staff members of the Senate Select Committee have challenged this latter argument on the grounds that the total budget figure for the Intelligence Community has not changed markedly over the past five years--that there have been no year-to-year fluctuations which would have signalled a major initiative during that time frame.

This counterargument is specious in an important respect. For the past five years the intelligence program has been undergoing a continuing contraction. There have been regular and substantial cuts. Thus, the costs of major new programs have been offset by simultaneous cuts in other programs. However, now that the fat has been cut from the intelligence program, it will not be possible in the future to make offsetting cuts for major initiatives.

C. The Authorizations Problem

As mentioned above, Sections 5 and 8 of the Central Intelligence Agency Act provide the Agency with a continuing authorization, and prior to the 95th Congress no annual authorization legislation was necessary for Agency appropriations. However, Section 12 of S. Res. 400 enacted by the Senate toward the end of the 94th Congress provides that: "no funds shall be appropriated for intelligence activities... unless such funds shall have been previously authorized by a bill or joint resolution passed by the Senate." Section 3 gives the Senate Select Committee on Intelligence concurrent jurisdiction with the Senate Armed Services Committee over authorizations and appropriations for the Intelligence Community. H. Res. 658 contains similar language.

The prospect of an annual authorization law for all intelligence functions creates some concern about the authorization and appropriation process for the Intelligence Community. There are questions of share authorization jurisdiction which are not settled at present and may lead to complications in the processing of the FY 1979 budget.

III. LEGISLATIVE ISSUES

A. Intelligence Charter Reform

Reforming the statutory charters of intelligence agencies is viewed by some as a way of combatting a perceived assault on civil liberties. A set of detailed statutory limitations, it is thought, will protect against future intelligence abuses. The professional intelligence officer views charter reform from a quite different perspective. While solicitous of the civil liberties of his fellow citizens, he believes that these liberties are not seriously threatened by the United States Government's foreign intelligence activities. He believes that past abuses were few and far between, that they were aberrations which were detected and remedied by the intelligence agencies themselves, and that they did not result from imperfections in the statutory law governing intelligence activities.

Still, the professional intelligence officer appreciates that the statutes which govern his efforts are far from perfect. However, he views reform as a way of reorganizing the Intelligence Community, strengthening the role of the Director of Central Intelligence, and improving the management and efficiency of intelligence activities.

There is great concern within the Intelligence Community that if the intelligence charters are "opened up" for amendment on the floor of Congress there could be disastrous results. There is concern that intelligence charters will be reduced to a litany of ill-conceived limitations and that all flexibility will be lost. There is, therefore, strong sentiment in the Intelligence Community to "leave well enough alone" and to rely upon good oversight and Executive orders to police the gaps in the statutes.

Surprisingly, this point of view is shared by many in the Congress. Senator Inouye, for example, has expressed his personal reluctance to open up the intelligence charters to amendment. On the other hand, serious attention is being given to statutory reforms both in the Congress and the Intelligence Community. Senator Church's Committee made 87 recommendations for reform. These have been reviewed within the Intelligence Community; some were considered sound, others ill-conceived. The Senate and House Select Committees have established subcommittees to consider possible charter amendments and guidelines. The Office of Legislative Counsel has been working with these subcommittees.

REPORTING REQUIREMENTS UNDER THE HUGHES-RYAN
AMENDMENT ("SECTION 662") AND UNDER S. RES. 400

1. Hughes-Ryan Reporting

The Hughes-Ryan Amendment, passed in 1974 as an amendment to the Foreign Assistance Act of 1961, requires the President to make a finding that a covert action activity ("operations...other than activities intended solely for obtaining necessary intelligence...") is important to the national security before it can be implemented by the DCI. Furthermore, the President must report "in a timely fashion" on the scope of such activities to "appropriate committees of the Congress." The DCI notifies the seven Congressional committees with intelligence oversight responsibilities as soon as practicable after receiving notification from the President that a particular activity falling within the ambit of Section 662 shall be implemented. The grant to the Senate Select Committee of exclusive oversight responsibility over the CIA is considered to have removed the Armed Services Subcommittee from those committees to whom Section 662 reports are made. The Agency still informs that Committee whenever a Presidential finding has been made, but we no longer report to them beyond mere notification. In time, it is anticipated that this limited reporting will stop. The Select Committee, as an "appropriate" committee under Section 662, is notified of Presidential findings along with the other committees to which reports are made.

2. S. Res. 400 Reporting

Section 11 of S. Res. 400, the enabling resolution for the Senate Select Committee on Intelligence, provides that "[l]t is the sense of the Senate that" the Committee be kept "fully and currently informed with respect to intelligence activities, including any significant anticipated activities." This section goes on to note specifically that such procedure "does not constitute a condition precedent to the implementation of any such anticipated intelligence activity." Although S. Res. 400 does not have the force of law and cannot by its terms bind the Executive, the DCI has met the provisions of Section 11 by maintaining a comprehensive and continual dialog with the Select Committee on the full range of intelligence matters and activities.

3. Prior Notification

The terms of the Hughes-Ryan Amendment clearly do not require notification to Congress as a condition precedent to implement of a covert action activity; the legislative history of the amendment enforces this aspect of the legislation. Although, as noted above, Section 11 of S. Res. 400 specifically disavows that notification to the Committee is considered a condition precedent to implementation of "anticipated activities," discussions subsequent to adoption of the resolution have established that the Committee considers that the DCI should, in all instances, notify the Committee prior to implementation of covert action activities.

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EXECUTIVE SECRETARIAT

Routing Slip

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SUSPENSE COB 9 Jan 78
Date

Remarks: We are updating the DCI/DDCI Senior Staff and Agency Functional Summary Notebook for the DDCI-designate's use. Please review your submission dated Dec 76 and return to ES promptly.

D/Executive Secretary
5 Jan 78
Date

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OFFICE OF LEGISLATIVE COUNSEL

FUNCTION:

- (1) Mission. The Legislative Counsel is responsible for all congressional matters arising in connection with the official business of the Director of Central Intelligence.
- (2) Functions: The Legislative Counsel shall:
 - (a) Keep the Director of Central Intelligence informed on all congressional matters involving or affecting the Agency and the Intelligence Community.
 - (b) Keep the Deputy Director of Central Intelligence (CIA) and the Deputy to the Director of Central Intelligence (Intelligence Community) informed on all congressional matters involving or affecting their responsibilities.
 - (c) Study and recommend Agency and Intelligence Community action in connection with proposed legislation in order to preserve or attain legislative requirements.
 - (d) Control all liaison with the Congress of the United States, its individual members and committees, and their staffs, and with legislative liaison staffs of other Executive departments and agencies.
 - (e) Subject to coordination with the Comptroller, conduct liaison with the Office of Management and Budget and other Federal agencies with respect to proposed legislation, enrolled bills, reports on proposed legislation, and proposed Executive Orders.
 - (f) Supervise the handling of congressional correspondence and inquiries.

STRENGTH:

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OFFICE OF LEGISLATIVE COUNSEL

INTERNAL RELATIONSHIPS:

The Legislative Counsel reports to the Director of Central Intelligence. When the matter involves the Agency it reports through the Deputy Director of Central Intelligence and when it involves the Intelligence Community it reports through the Deputy to the Director of Central Intelligence for the Intelligence Community. The Office of Legislative Counsel receives its assignments directly from the above-mentioned officials. However, many of the requests for action originate with Congressional committees and individual members and their staffs. These requests, where necessary, are cleared through the above-mentioned officials. Whenever an assignment or a request is received, OLC refers the matter to the appropriate component, coordinates the preparation of responses, reviews responses to assure policy consistency and responsiveness and forwards the response to the appropriate officials, Congressional committees or individual members. The OLC, where necessary, coordinates and keeps informed the Comptroller, the General Counsel and the Inspector General on all matters within these purviews. The OLC, when necessary, requests the Office of the DDI and the NIO to provide substantive intelligence and briefings on subjects requested by Congressional committees or individual members.

EXTERNAL RELATIONSHIPS:

AT The OLC participates in the Legislative Inter-departmental Group and the Intelligence Committee ad hoc Coordinating Group. It does not chair either of these. [] Legislative Counsel, and [] Deputy Legislative Counsel, principally handle day-to-day coordination with the heads of legislative liaison offices in other Executive Branch components, although all members of the Office of Legislative Counsel maintain contact where necessary from time to time. In particular, [] Office of Legislative Counsel, supervises liaison on legislation with OMB and other executive agencies. The primary point of contact in other principal Executive Branch components are:

AT

- Frank Claunts, OMB
- Jim Wenzel, Department of Justice
- Tom Latimer, Department of Defense
- Sam Goldberg, Department of State

DCI LEGISLATIVE OBJECTIVES

- I. Two Principal Legislative Objectives: The Director of Central Intelligence, the Central Intelligence Agency and the Intelligence Community Staff have two main legislative objectives for 1977:

A. Protection of Intelligence Sources and Methods: We have sought enactment of legislation to establish criminal sanctions for the unauthorized disclosure of intelligence sources and methods by Government employees who have been entrusted with such information. Recently, very serious damage has been done to our foreign intelligence program by such unauthorized disclosures; however, there are no existing laws which effectively protect this sensitive information. Remedial legislation was recommended by the President in February 1976 and was introduced in the 94th Congress as H.R. 12006. The need for this legislation has become critical. (TAB A contains a fuller discussion of this legislation and the text of H.R. 12006.)

B. Second Deputy Director: We have sought an amendment to the National Security Act of 1947 establishing, in lieu of the existing single deputy position, two deputy positions, a Deputy Director for the Central Intelligence Agency and a Deputy Director for the Intelligence Community. Such a provision will further effectuate E.O. 11905 by giving the DCI the support of two deputies, which he needs if he is to function effectively in his dual role as head of CIA and overall coordinator of the Intelligence Community. This legislation was approved by OMB in October 1976 for submission to Congress. (TAB B contains a fuller discussion of this legislation and a text of the proposed bill.)

- II. New Intelligence Agency Charters: Continuing congressional interest in statutory charters for intelligence activities has prompted a careful review of our charter and the preparation of possible charter revisions. These proposals are still being developed.

- III. Electronic Surveillance: In the 94th Congress the Director of Central Intelligence supported carefully drawn legislation to authorize applications for court orders approving electronic surveillance for foreign intelligence purposes. The Director attaches great importance to this problem and is interested in participating in the consideration of any such legislation in the 95th Congress.

"Intelligence Sources and Methods" - Establish Criminal Penalty
for Unauthorized Disclosure

The continued effectiveness of the United States foreign intelligence collection effort is dependent upon the adequate protection of the intelligence sources and methods involved. In recognition of this, Congress, in Section 102(d)(3) of the National Security Act of 1947, made the Director of Central Intelligence responsible for the protection of Intelligence Sources and Methods from unauthorized disclosure. Unfortunately, there is currently no statutory authority to implement this responsibility. This proposed legislation would remedy this deficiency. In recent times, serious damage to our foreign intelligence effort has resulted from unauthorized disclosures of information related to intelligence sources and methods. The circumstances of these disclosures precluded punitive criminal action.

In most cases existing law is ineffective in preventing disclosures of information relating to Intelligence Sources and Methods. Except in cases involving communications intelligence, no criminal action ordinarily lies unless the information is furnished to a representative of a foreign power or the disclosure is made with intent to harm the United States or aid a foreign power. Except in the case of knowingly furnishing classified information to either a foreign government or a foreign agent, prosecution requires proof, to the satisfaction of the jury, that the information affects the national defense within the meaning of the statute. This can only be established by further public disclosure in open court which may aggravate the damage to the security and intelligence interests of the United States and raises an additional obstacle to prosecution. The difficulties imposed by these burdens substantially reduce the effectiveness of the general criminal statutes as a deterrent to unauthorized disclosure of sensitive Intelligence Sources and Methods information.

The proposed legislation amends Section 102 of the National Security Act of 1947 by adding a new subsection (g) defining "information relating to intelligence sources and methods" as a separate category of information to be accorded statutory recognition and protection similar to that provided "Restricted Data" under the Atomic Energy Act. The proposed law recognizes the authority of the Director of Central Intelligence and the heads of other agencies expressly authorized by law or by the President to engage in intelligence activities for the United States to limit the dissemination of information related to Intelligence Sources and Methods of collection. It provides for a criminal penalty for the disclosure of such information to unauthorized persons and for injunctive relief. The provision is specifically limited to those Federal employees, former employees, or others having a privity of relationship with the information disclosed. It does not apply to outside third parties, such as the press to whom the unauthorized disclosure is made.

Enactment of this proposal will not result in significant additional costs to the Federal Government. If the proposal is successful in deterring unauthorized disclosures, it would result in substantial savings to the Government by preserving existing systems.

Amendment of the National Security Act of 1947 to Establish
a Second Statutory Deputy Director of Central Intelligence

The National Security Act of 1947 established the Office of Director of Central Intelligence as executive head of the Central Intelligence Agency. Among his responsibilities under the Act, the Director is charged with the oversight and coordination of the foreign intelligence community. Over the years, this latter supra-departmental responsibility has become increasingly important. The President, through Executive Order 11905, has recently taken steps to further enhance the role of the Director in coordinating the activities of the Intelligence Community.

The Director's expanding duties in administering the Intelligence Community, handling relations with other components of the Government, serving as the Government's principal foreign intelligence adviser, and passing on broad questions of policy, leave him less time for day-to-day supervision of the Agency. It has become apparent that the Director must have the support of two deputies if he is to function effectively in his dual role as administrative head of the Central Intelligence Agency and overall coordinator of the Intelligence Community.

In this connection, the President's Commission on CIA Activities Within the United States has recommended the creation of two statutory deputies to improve supervision and management of the Central Intelligence Agency and to assist the Director in his Community responsibilities. The President has already taken administrative action to this effect in Executive Order 11905 by directing the Director of Central Intelligence to delegate the day-to-day operation of the CIA to the Deputy Director of Central Intelligence and by creating the position of "Deputy to the Director of Central Intelligence for the Intelligence Community" to assist the Director in his supervision of the Intelligence Community. Because of the nature of their respective positions and the responsibility imposed upon them, it is recognized that it would be desirable for both Deputies to be politically accountable officials--appointed by the President and confirmed by the Senate.

The proposed legislation amends Section 102 of the National Security Act of 1947 by creating, in lieu of the one Deputy Director of Central Intelligence currently provided for in that Section, two Deputy Directors: a Deputy Director of Central Intelligence for the Central Intelligence Agency and a Deputy Director of Central Intelligence for the Intelligence Community. The proposed legislation authorizes the Director to delegate to each of the Deputy Directors any of the authorities vested in him by virtue of his position as Director of Central Intelligence and as head of the Central Intelligence Agency. It provides that the Director and Deputy Directors shall be appointed by the President with the advice and consent of the Senate. It provides further that the positions of Director of Central Intelligence and Deputy Director of Central Intelligence for the Central Intelligence Agency shall not be occupied simultaneously by a commissioned officer of the armed services.

DCI RELATIONS WITH CONGRESS

DCI relations with Congress fall basically into the following areas:
General Legislative Oversight, Appropriations, Covert Action, Substantive Intelligence Support, Investigations of Intelligence Community Activities by Non-oversight Committees and Legislation.

I. General Oversight -- is handled by the Select Committee on Intelligence with ¹⁷15 members and by Subcommittees of the Senate and House Armed Services Committees involving a total of 14 members.

II. Appropriations -- Are handled by Subcommittees of the Senate and House Appropriations Committees involving a total of 18 members.

III. Covert Action -- Is handled in addition to the above committees by Subcommittees of the Senate Foreign Relations and House International Relations Committees with a total of 9 members, which receive reports on all covert action programs pursuant to statute (Sec 662 of Foreign Assistance Act of 1961, as amended).

IV. Substantive Intelligence Support -- Is rendered to a number of other committees, offices (e. g. Congressional Budget Office) and individual members.

V. Investigations of Intelligence Community Activities by Non-oversight Committees -- Arises on an ad hoc basis and we are anticipating heavy support to the new House Select Committee on Assassinations which will be investigating, at least initially, the deaths of former President Kennedy and Martin Luther King.

VI. Legislation -- Is formulated, where needed, and monitored to ensure that our activities are not impacted unintentionally.

The above areas of interest are more specifically defined below.

I. General Legislative Oversight

A. Senate Select Committee on Intelligence (SSCI)

1. Responsibilities: The SSCI has exclusive jurisdiction over CIA and sequential jurisdiction over the remainder of the IC and has, basically, the following responsibilities:

- legislation
- annual appropriation authorization
(for the first time -- previously funds were appropriated without an annual authorization)
- ~~matters generally, including oversight to~~ ensure policy makers get necessary, accurate and timely intelligence, and to ensure rights of American citizens are not infringed.

2. Issues:

- Separation of Powers. The determination of the members and staff to be fully and currently informed of intelligence activities will pose serious questions with respect to striking a balance between

prerogatives of the committee and executive privilege.

- Budget disclosures. The committee may well vote to release publicly budget figures for the National Foreign Intelligence ^{Program} plan and/or totals for each IC component. Of the 15 members of the committee, 10 have previously voted to reveal the budget, 3 have voted against public release, and 2 have not been recorded on the issue.

Disclosure of sensitive information. The committee can vote to disclose any information they wish to. If they do so, the President has 5 days to object and if he does so, the committee reconsiders its vote. If it votes again to disclose, it then goes to the full Senate for discussion and vote, which can result in referral back to committee for decision.

- Proliferation of sensitive information. In spite of the committees conscientious effort to maintain strict security, the number of people involved (15 members, almost 50 staffers) and possible turnover poses problems.

3. Opportunities.

- Charter. The Committee has created an ad hoc subcommittee to study charters and guidelines. Any revision will have a lasting effect on the IC.

This will present the opportunity to provide specific authority to conduct espionage and covert action as well as to clearly set out any other authority, or limitations the IC should be governed by.

-- Quality of Intelligence. A subcommittee is currently studying this area and the committee has been directed to complete the study by 1 July 1977. This will provide the IC with the opportunity to tell its story with respect to intelligence collection.

-- Congressional and Public Trust. The thorough and serious approach of the committee and staff will, in large measure, help to restore trust and confidence in the IC.

B. Senate Armed Services Committee, CIA Subcommittee.

While this subcommittee technically exercises general oversight jurisdiction, due to the advent of the SSCI, these responsibilities have de facto shifted to the new committee. Even so, we are continuing to keep the committee informed of IC matters generally. The Committee is especially kept informed on matters of foreign military intelligence. It will have an active role and influence on the authorization of IC appropriations.

C. House Armed Services Committee, Special Subcommittee on Intelligence.

1. Responsibilities.

-- legislation

-- matters generally other than appropriations

with special emphasis to ensure the subcommittee is kept currently informed of foreign intelligence developments with particular emphasis on foreign weaponry.

2. Issues. None

3. Opportunities.

Joint or House oversight. While it is appreciative of the problems of fractionated jurisdiction in the House and the proliferation of sensitive information which would be resolved by a House committee similar to the SSCI, it may be reluctant to relinquish its unique jurisdiction.

-- Legislation. The subcommittee could provide valuable support in obtaining passage of Agency-proposed legislation such as sources and methods and 2 deputies.

II. Appropriations Oversight

A. Senate Appropriations Committee, Intelligence Operations Subcommittee

1. Responsibilities.

-- Appropriations. Since the Senate follows the House in the appropriations process, Senate action is generally limited to adjusting House figures. During the past few

years, the subcommittee has tended to restore some funds cut by the House.

2. Issues. Subcommittee work has suffered from its failure to allocate sufficient staff personnel to reviewing intelligence budgets. This situation has been remedied somewhat with the recent assignment of a Majority staff member to the subcommittee and by a decision of the Minority clerk to devote more time to the intelligence budget.
3. Opportunities. With the added staff interest in the intelligence budget, it should be possible to present IC arguments in such a way as to off-set decisions made by the House which adversely affect IC programs.

B. House Appropriations Committee, Defense Subcommittee.

1. Responsibilities.

-- Appropriations with respect to the IC budget and its cost effectiveness. Its report is issued in a short unclassified statement and a very detailed classified annex. The Chairman, in fulfillment of his responsibilities to the House, has offered to all members of the House the right to see the IC budget and the subcommittee report thereon.

2. Issues.

-- Access to information. In pursuit of its responsibilities, the staff has asked for and received an enormous amount of sensitive information on all aspects of IC programs. Such requests have included information which the IC maintains is privileged Executive Branch information and has been denied by the IC. These denials in large part have led to the investigations mentioned below.

-- Interjection of Subcommittee into Executive Branch policy and management decisions. An example of this is the Subcommittee staffs refusal to deal with the DCI's Legislative and General Counsels on non--CIA matters. Various proposals have been made to solve these problems but so far without success. Other examples are to be found in major cuts imposed on certain IC programs.

-- Subcommittee investigations. Currently the Surveys and Investigations Staff has underway separate investigations into IC activities including SIGINT, Communications, Training and a full review of CIA/DDO activities. These investigations, coming on the heels of the Rockefeller, Church and Pike investigations have cost the IC considerably in terms of lost man hours and disruption of morale.

3. Opportunities.

-- The transition period would be a propitious time to curtail somewhat the seemingly endless number of investigations.

- This period could also be well utilized to formulate Executive Branch policy with respect to the requests for internal documents and other information considered privileged.
- The development of closer ties to members of the subcommittee could help to alleviate somewhat the stresses experienced with the staff.
- The provision of a technical expert to the subcommittee during markup, if allowed by the subcommittee, could help to ensure that any cuts made of major IC programs are made based on a full knowledge of the facts.

C. Senate and House Budget Committee. Recent changes in the law provide for increased oversight of all Executive Branch budgets. It is uncertain at this time to what extent these Committees will be provided detailed access to IC budgets, but they no doubt will receive the total figures hopefully under a condition of non-disclosure.

III. Covert Action

A. Responsibilities.

Current law requires that the appropriate committees (seven committees, including the subcommittees mentioned in I and II and the Senate Foreign Relations (SFRC) and the House International Relations (HIRC) Committee) receive reports on the scope and description of all covert action programs found necessary by the President.

B. Issues.

- Proliferation of sensitive information. The above procedures mean that at a minimum 56 members of Congress will be informed of all covert action programs conducted by the IC under the direction of the President. In addition to such members, the principle staff member of those subcommittees also attend such briefings. Also, SFRC and HIRC procedures allow any member of the full committee to receive information provided the subcommittees. Technically, all 435 members of the House have access to any committee records.
- Public release of covert action information. The proliferation of such information as outlined above has led to numerous instances where considerable information on covert action programs has been released to the public. Such release has jeopardized a number of programs and has led to the cancellation of at least one major program.

C. Opportunities

The current period could be utilized to review the above procedures to see if a modification thereof might be in order and possible.

IV. Substantive Intelligence Support.

A. Non-oversight committees.

1. Responsibilities.

Under the current procedures, the IC briefs any committee on the substantive intelligence available on almost any subject requested. In doing so, however, no operational matters or sensitive intelligence which would reveal intelligence sources and methods is provided. When questions arise with respect to the latter, the committees are politely referred to the appropriate oversight subcommittees.

2. Issues. In the past, certain committees were not satisfied with the procedures with respect to the refusal to provide operational or sensitive information, however, in most cases, they abided thereby.

3. Opportunities. The transition period provides an appropriate time to review these procedures and to obtain policy guidance thereon.

B. Leadership and Individual Members of Congress.

The IC has worked out a system whereby the Majority and Minority leaders of the House, and to a lesser extent Senate leadership, as kept currently informed of intelligence with respect to worldwide events of significance. In addition, individual members can and do ask for and receive briefings on a wide range of subjects of interest to them in formulating positions on proposed legislation and in preparation for trips abroad.

V. Investigations of IC Activities by Non-oversight Committees

House Select Committee on Assassinations. The IC is currently establishing liaison with this new committee with the objective of ensuring that it receives and handles in an appropriate manner all information relevant to its charter. It is expected that this will entail a large number of man-hours over an extended period.

VI. Legislation.

A. Draft Proposals Already Submitted.

1. Intelligence Sources and Methods.

-- Purpose: The DCI has statutory responsibility to protect against the unauthorized disclosure of intelligence sources and methods. The lack of criminal sanctions for unauthorized disclosure continues to present a serious problem for the Government's National Foreign Intelligence Program. Recent publication of books and articles by persons having authorized access to sensitive intelligence information have damaged the Government's foreign efforts. Legislation establishing criminal sanctions for such unauthorized disclosure of intelligence sources and methods is considered to be a very important deterrent. It would not apply to ^{an} unauthorized recipient _^ or the publication of the material by newsmen, etc.

-- Status: The legislation was transmitted by the President to the 94th Congress and introduced as H.R. 12006 but no further action was taken.

2. Two Deputies.

--Purpose: The National Security Act of 1947, as amended, established the CIA and the positions of Director of Central Intelligence (DCI) and a Deputy Director of Central Intelligence (DDCI). Over the years, as the requirements, responsibilities and workload of the DCI have increased--particularly his duty to oversee and coordinate the functioning of the Intelligence Community--it has become increasingly apparent that a second statutory Deputy Director is needed if the DCI is to properly carry out his duties and to ensure the most effective functioning of U. S. foreign intelligence. The Rockefeller Commission recommended the creation of a second DDCI position. The President, in Executive Order 11905 (issued 18 February 1976), directed that the day-to-day functioning of the CIA be directed by the DDCI and that the position of "Deputy to the Director of Central Intelligence for the Intelligence Community" be established to assist the DCI in his supervision of the IC.

--Status: The proposed legislation was approved by OMB for transmittal to the Congress in September 1976.

B. Other Legislation.

1. Charter Revision.

-- Reason. The SSCI has created a subcommittee to study and propose charter revisions. The predecessor Church committee recommended a number of charter changes.

-- If it is determined that the charter is to be revised, included should be explicit authority to conduct espionage and covert action with the necessary infrastructure. Such a revision should also explicitly define the authority and limitations of the DCI and the IC.

2. Establishment of a Joint Committee on Oversight or House House Select Committee on Intelligence.

-- Need. While the House exercises oversight over the IC, it has not set up machinery equivalent to the SSCI in spite of pressure by a number of House members to take action to pull abreast of the Senate. Creation of a House version of the SSCI, if it had the necessary exclusive jurisdiction, would help diminish the proliferation of information. However, an even greater reduction could

be accomplished through the establishment of a joint committee. It makes sense to push for a joint committee at this time before the House sets up its "SSCI" in order to avoid the problem of parochial interests that would go along with an "HSCI". Also, the SSCI is to make recommendations in the summer of 1977 concerning the structure of congressional oversight in the Congress.

- Revision of House Rules. Concurrently with the establishment of a "HSCI", House Rule XI should be modified to ensure that IC information is not made available to all House members requesting such information.

3. Repeal of Sec. 662 (Covert Action Reporting)

Since the purpose of a Joint committee would be to concentrate oversight and avoid proliferation, repeal of Sec. 662 should be part and parcel of the joint committee legislation. However, in repealing Sec. 662, some provision must be made to protect the legitimate interests of the Senate Foreign Relations Committee and the House International Relations Committee in being aware of those matters which affect or support the foreign policy of the U.S..

4. Firearms Legislation.

-- Purpose. The only authority to carry firearms now in existence relates solely to the protection of classified documents. There is a need to protect certain IC persons and to authorize those charged with this responsibility to carry firearms for this purpose.

5. Electronic surveillance. The DCI supported a carefully drawn Bill on this subject during the 94th Congress. While that Bill did not reach the floor, it most likely will emerge during the next session and must be carefully monitored.

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*These committees or individuals, in addition to the regular oversight committees, receive briefings on Presidential findings under Section 662 of the Foreign Assistance Act of 1961, as amended.